

To: Berzon, Alexandra[Alexandra.Berzon@wsj.com]
From: StClair, Christie
Sent: Wed 8/26/2015 1:16:27 AM
Subject: Re: GKM - initial responses

This is totally on background since it's just as guidance to help you find the answer to this.

I'm not sure we are going to get much of an EPA perspective on 1970s. State likely best, but my colleague in Denver is checking to be sure. State also may be best for pre 1991, which I believe is when state agreement for treatment w sunny side became effective.

Christie St. Clair

Office of Public Affairs

Environmental Protection Agency

o: 202-564-2880

m: 202-768-5780

On Aug 25, 2015, at 8:12 PM, "Berzon, Alexandra" <Alexandra.Berzon@wsj.com> wrote:

Thanks Christie – this is helpful – I am trying to establish whether the quality now is worse than in 1991 and whether it is as bad or nearly as bad as sometime during the 1970s. Any thoughts on achieving that?

From: StClair, Christie [<mailto:StClair.Christie@epa.gov>]
Sent: Tuesday, August 25, 2015 5:10 PM
To: Berzon, Alexandra
Subject: Re: GKM - initial responses

Alexandra, this is for background only. - Christie

Background only:

Cement Creek has been considered impaired (as part of State and EPA Clean Water Act assessments) due to elevated concentrations of various heavy metals for many years.

Per State actions/agreements, including the installation of a water treatment facility, water quality did improve in Cement Creek beginning in the 1990s. Mine owners ceased treating water in Cement Creek in the 2004-2005 timeframe. At that time discharges from the Red and Bonita mine also became more prominent. These factors contributed to declining water quality.

Excerpts from website and fact sheet below:

<http://www2.epa.gov/region8/upper-animas-mining-district>

<http://www2.epa.gov/sites/production/files/2015-08/documents/goldkingminewatershedfactsheetbackground.pdf>

Until approximately 2005, water quality in the Animas River was improving. However, since 2005, water quality in the Animas River has not improved and, for at least 20 miles below the confluence with Cement Creek, has declined significantly. Impacts to aquatic life were also demonstrated by fish population surveys conducted by Colorado Parks and Wildlife, which found no fish in the Animas River below Cement Creek for approximately two miles and observed precipitous declines in fish populations since 2005.

Water sampling showed a marked increase in the levels of several heavy metals in the Animas River below the confluence with Cement Creek after active and passive treatment ceased in the drainage.

Christie St. Clair

Office of Public Affairs

Environmental Protection Agency

o: 202-564-2880

m: 202-768-5780

On Aug 25, 2015, at 5:32 PM, "Berzon, Alexandra" <Alexandra.Berzon@wsj.com> wrote:

Hi Christie, I know you may hate me for this but I do have one additional question that I hope won't be a very tough one. I have heard from some people that the water quality in Cement Creek is worse than it was in 1991, when the state and federal government first became aware of problems there, and in fact is close to as bad as in the 1970s before many modern basic environmental regulations went into effect . I realize that there may be a way for me to confirm this by pouring through various studies but as there was some disagreement among some of the local officials on this statement and as I am not qualified myself to interpret these studies, is it possible for someone at the EPA to please tell me (on background is fine) whether this is in fact true and/or point me specifically to the best resource to confirm this. Thank you very much. Best,

Alexandra

From: StClair, Christie [<mailto:StClair.Christie@epa.gov>]

Sent: Tuesday, August 25, 2015 11:24 AM

To: Berzon, Alexandra

Subject: Re: GKM - initial responses

Thanks for the yellow highlighting, it sure does keep things from getting unwieldy.

I have a press officer working on nothing else but your and Dan's inquiries today, and she'll keep pushing as long as it takes.

Christie

From: Berzon, Alexandra <Alexandra.Berzon@wsj.com>
Sent: Tuesday, August 25, 2015 2:21 PM
To: StClair, Christie
Subject: RE: GKM - initial responses

Hi Christie, Thanks for this. I have some follow up questions for clarification – in yellow - please let me know if these are clear or if we should go over on the phone – and also when you think you might be able to respond to these and with the pending answers. I appreciate your attention to this very much.

Best,

Alexandra

From: StClair, Christie [<mailto:StClair.Christie@epa.gov>]
Sent: Tuesday, August 25, 2015 10:09 AM
To: Berzon, Alexandra
Subject: GKM - initial responses

Hi Alexandria, my cell is 202-768-5780. Thanks, Christie.

Please attribute to US EPA:

1) According to previous reporting, the EPA had prepared a Superfund study for the area- can you please provide us that document.

Please submit a FOIA request, as discussed on August 19.

2) How much money would an Animas River Basin cleanup have cost (ie if the site had been designated a Superfund (National Priorities List site (NPL)) and how long would it have taken? Who would have provided that funding? What specifically was to be cleaned up?

Response:

EPA is conducting ongoing investigations to determine the nature and extent of the contamination in the Upper Animas Mining District. Until those investigations have been completed, EPA will be unable to provide estimates on the total cost of cleanup needs.

Depending on the extent of the contamination, complexity of the site, available funding, and other factors, determination and construction of a NPL site remedy can exceed 10 years. In general, types of remedies could include--but would not be limited to -- capping and/or moving mine waste piles from contact with surface water, and addressing acid mine drainage flowing from mine tunnels (adits) by either plugging and/or treating discharges.

In addition, the operation and maintenance of constructed remedy components, such as water treatment plants, often need to continue well into the future. In this case, it is important to consider that the environmental damage to the watershed began over a century ago.

Funding for Superfund site work can come from several sources – the federal government through the Superfund, parties responsible for the contamination, and in the cases of mixed ownership sites, other Federal entities such as the U.S. Forest Service and Bureau of Land Management.

3) When did the EPA first become involved there in trying to get it on the Superfund Priorities List and why? Why wasn't it put on the list?

Response: EPA started working in the Upper Animas watershed in the early 1990's due to the deteriorated water quality in the Animas River. At that time, the local communities did not support the option of designating this area as a NPL site. Since that time, EPA has worked with the local communities and the Colorado Division of Reclamation, Mining and Safety to address the water quality issues.

Clarification: When did the EPA begin the work to investigate putting the area on the NPL or are you saying they have not yet started this? It seemed this work had begun and had resulted in some particular studies and work, such as the Baseline Ecological Risk Assessment for the area and a letter to Sunnyside to begin investigations into ownership, etc.. Can you please explain?

4) Why was the EPA doing the most recent work on shoring up the mines - was there something in particular that precipitated that?

Response: In December 2002, Sunnyside Gold Corporation (SGC) installed the third plug in the American Tunnel at Gladstone. Within 12 months of the plugging of the American Tunnel, acid mine drainage began discharging from the Red and Bonita flowing down Cement Creek to the Animas River. Prior to the American Tunnel plug, the Red and Bonita mine adit had previously had little or no discharge.

In (year), EPA's Superfund Removal Program began investigating the Red and Bonita mine to determine the feasibility of installing a bulkhead in the mine adit with a valve to control the discharge. During the summer of 2015, EPA was planning to install a bulkhead in the Red and Bonita mine and, as of

August 2015, was beginning an investigation of the conditions of the Gold King Mine adit.

Clarification: So the EPA *has not* already installed the bulkheads in the Red and Bonita mine? I was under the impression that this was already done.

5) Does the EPA think at this point that this should be a Superfund (NPL) site, and again how much would that cost and how would it be funded?

Response: EPA will continue to work with our partners and stakeholders to determine the best path forward in addressing mining impacts in the Animas River watershed. The 1986 amendment of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, better known as Superfund) contains public participation provisions that direct the EPA to engage communities affected by actual and potential Superfund NPL sites about cleanup decisions, including the decision to list a site. The Superfund National Priorities List (NPL) identifies the most serious sites that the EPA has designated to be eligible for long-term cleanup. When the EPA proposes to add a site to the National Priorities List (NPL), the Agency publishes a public notice about its intention in the *Federal Register*. The EPA also issues a public notice through the local media to notify the community, so interested members of the community can comment on the proposal. The EPA must respond to the comments it receives. After consideration of those comments and weighing other factors, the Agency may proceed with adding a site to the NPL.

6) Was the Sunnyside Gold Remedial Investigation Plan filed to the EPA? If so can we please get a copy of this or any other report filed from Sunnyside mine to the EPA.

Please submit a FOIA request, as discussed on August 19.

7) Please describe the recent settlement negotiations between the EPA and Sunnyside mine and provide any documents related to these settlement talks. Has there been a resolution? When was the most recent set of talks or exchange of documents or emails with Sunnyside and what was said? How much money did the EPA (prior to the latest mine spill) think Sunnyside should pay for cleanup?

Please submit a FOIA request, as discussed on August 19.

8) Please provide us the “CERCLA 104e-like letter” (ie not formally this exact letter but something very similar) that was sent by the EPA sometime around the end of 2012/beginning of 2013 sent to Sunnyside and all other Animas River Basin mine owners. How many PRPs has EPA been in touch with in the Animas River Basin area?

Please submit a FOIA request, as discussed on August 19.

9) How much money from the Standard Metals settlement did the EPA collect from Standard Metals and/or its insurance fund and how much of that went to Animas River Basin cleanup. What cleanup were those funds used for?

EPA collected \$456,903.10 from the Standard Metals settlement. These funds have been used to pay for investigations throughout the Upper Animas Mining District site.

Clarification: Are you saying that ALL money from the settlement went to the Animas Mining area? The settlement was for a number of sites in several states so was the \$456,903 the total collected or only the total that was spent in Animas? If it was only the portion given for the Animas cleanup, what was the total collected?

10) According to the September 2014 meeting of the Animas River Stakeholders group, EPA contractors tried to open the Gold King around that time but it collapsed back further than anticipated and there was a blockage near the entrance and a previously unidentified small mine pool that needed to be drained, so the EPA stopped work and decided to reevaluate its approach. Can you please explain this problem and how the EPA tried to solve it when going back into the mine recently.

The circumstances surrounding the incident are being investigated. More information will be available as the investigation proceeds. More information is available at: <http://www2.epa.gov/goldkingmine/epa-announces-us-department-interior-lead-independent-review-gold-king-mine-release>

11) I have seen several reports from the EPA from recent years explaining the Red and Bonita mine cleanup plan. However, I can't find any official documents that mention Gold King as part of that cleanup. Can you please refer me to any planning documents for Gold King work and also explain how Gold King came about – was it part of the same work being done on Red and Bonita mine cleanup? Why was it not initially mentioned in planning documents? Was that work added later on in the process and if so when and why?

Pending

12) Also even though the *documents* mentioned in questions 1, 6, 7 and 8 must be obtained through FOIA, can you please answer these *questions* for #7:

Please describe the recent settlement negotiations between the EPA and Sunnyside mine. Has there been a resolution? When was the most recent set of talks or exchange of documents or emails with Sunnyside and what was said? How much money did the EPA (prior to the latest mine spill) think Sunnyside should pay for cleanup?

Sunnyside has said that it set aside \$10 million to pay for a new water treatment plant and for the plant to operate for 20 years but the EPA would have to agree that it has no further liability. Has this plan been presented to the EPA? Has the EPA agreed to this or is it still considering the plan? If it has said that it would not agree to this, why not?

Pending